

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

LEXINGTON INSURANCE COMPANY and
NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH,

Plaintiffs,

v.

VIRGINIA SURETY COMPANY, INC.

Defendant.

CIVIL ACTION NO. 04-11109 RGS

MOTION TO SET BRIEFING SCHEDULE
FOR DISPOSITIVE MOTIONS

Plaintiffs Lexington Insurance Company and National Union Fire Insurance Company of Pittsburgh, PA and Defendant Virginia Surety Company, Inc. (“the parties”) respectfully request that the Court adopt the briefing schedule for dispositive motions in the above-captioned matter as set forth below.

In support of this motion, the parties state that depositions are scheduled through the close of the discovery period on August 8, 2006. The parties believe that this matter is one that can be decided at summary judgment and, to that end, each anticipates filing a motion for summary judgment. So that each party will have adequate time to receive the transcripts from the depositions, to assemble the relevant factual record, and to fully brief the Court on the issues, the parties propose the following schedule:

Event

Filing and service of motions under
Fed. R. Civ. P. 56:

Deadline

Friday, September 29, 2006

Filing and service of oppositions to said motions:

Monday, October 30, 2006

Filing and service of reply briefs, if any, to the motions:

Monday, November 13, 2006

WHEREFORE, the parties request that the Court adopt the briefing schedule for dispositive motions as set forth above.

LEXINGTON INSURANCE COMPANY AND VIRGINIA SURETY COMPANY, INC.
NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA,

By their attorneys,

By its attorneys,

/s/ Gerald S. Frim

Mark E. Cohen, Esq. (BBO# 089800)
Robert J. Maselek, Esq. (BBO# 564690)
Gerald S. Frim, Esq. (BBO# 656204)
THE MCCORMACK FIRM , LLC
One International Place –7th Floor
Boston, MA 02110
(617) 951-2929
(617) 951-2672 (fax)

Dated: 7/28/06

/s/ John M. Stephan

Joseph G. Blute, Esq. (BBO # 047300)
John M. Stephan, Esq. (BBO # 649509)
Nicholas C. Cramb, Esq. (BBO # 654368)
MINTZ LEVIN COHN FERRIS
GLOVSKY & POPEO, P.C.
One Financial Center
Boston, MA 02111
(617) 542-6000
(617) 542-2241 (fax)

Dated: 7/28/06

CERTIFICATE OF SERVICE

I, Gerald S. Frim, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on July 28, 2006.

/s/ Gerald S. Frim

Dated: July 28, 2006